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Memo: **“Robust Monitoring”**

To:

From: Jonathan Granoff, President, Global Security Institute (GSI)
Dr. Urs Cipolat, Program Manager, GSI

Date: February 3, 2003

Pages: 6

PURPOSE:

The purpose of this memo is to place before the U.S. Administration a path that will at a minimum help accomplish the following:

1. Improve the mechanisms of international cooperation and law;
2. Enhance the respect for and honor of U.S. foreign policy, internationally in general and in the Middle East in particular;
3. Constrain the Iraqi regime and change its behavior;
4. Improve human rights conditions in Iraq and, by implication, in the region;
5. Save lives;
6. Maintain a military presence in the region without straining and destabilizing the international legal framework;
7. Ensure that Iraq is properly and effectively disarmed;
8. Strengthen the capacity to ensure that Iraq cannot threaten its citizens, neighbors or the world with the development or deployment of weapons of mass destruction.

EXECUTIVE SUMMARY:

The establishment of a “Robust Monitoring” regime in Iraq by dramatically increasing the number of UN inspectors and transforming their mandate – in accordance with UN SC Res. 715 (1991), 1284 (1999) and 1441 (2002) - into one of long-term monitoring that would allow the U.S. and its allies to simultaneously claim credit for

- improved national and international security through effectively disarming Iraq;
- improved human rights situation in Iraq through human rights monitoring;
- improved international cooperation and law through U.S. leadership in shaping and implementing international norms.

This, in turn, would constitute an respectable political victory for the U.S. and enhance the U.S. Administration’s capacity to effectively address other pressing issues on the international level.

RATIONALE:

Contents:

- I. Iraq’s Disarmament Obligations under UN SC Resolutions**
- II. Implementation of Iraq’s Disarmament Obligations**
- III. Transition from UNSCOM to UNMOVIC and Effect on Implementation**

I. Iraq’s Disarmament Obligations under UN SC Resolutions

(A) Chemical and Biological Weapons and Ballistic Missiles

UN SC Res. 687 (April 8, 1991), para. 8, determined that “Iraq shall unconditionally accept the destruction, removal, or rendering harmless, **under international supervision**, of

- (a) All **chemical and biological weapons** and all stocks of agents and all related subsystems and components and all research, development, support and manufacturing facilities related thereto;
- (b) All **ballistic missiles** with a range greater than one hundred and fifty kilometers, and related major parts and repair and production facilities.”

(B) Nuclear Weapons

UN SC Res. 687 (1991) invited Iraq “to reaffirm unconditionally its obligations” under the NPT.¹ More importantly, the Resolution decided that Iraq “shall unconditionally agree not to acquire or develop **nuclear weapons or nuclear-weapon-usable material** or any subsystem or components or any research, development, support or manufacturing facilities” related to nuclear weapon capability.²

II. Implementation of Iraq’s Disarmament Obligations

Immediately following the end of the Gulf War, the UN Security Council laid out a **three-stage implementation procedure**, consisting of

- gathering and assessment of information (**immediate on-site inspections**);
- disposal of weapons and facilities and all other items specified in Res. 687 (1991) (**medium-term destruction of WMD and missile capabilities**); and
- ongoing monitoring and verification of Iraq’s compliance (**long-term monitoring and verification**).

(A) Immediate On-site Inspections

UN SC Res. 687 (1991) established the United Nations Special Commission (UNSCOM).³ The Resolution called for “**immediate on-site inspections** of Iraq’s **biological, chemical and missile capabilities**, based on Iraq’s declarations and the

¹ Para. 11.

² Para. 12.

³ Para. 9(b).

designation of any additional locations by the special commission itself.”⁴ As far as **nuclear weapons capabilities** were concerned, the Resolution required Iraq “to place all its nuclear-weapon-usable materials under the exclusive control, for custody and removal, of the [International Atomic Energy] Agency, with the assistance and cooperation of the Special Commission,” and “to accept, in accordance with the arrangements provided for in paragraph 13, **urgent on-site inspection**”⁵ Para. 13 specified that these “immediate on-site inspections of Iraq’s nuclear capabilities” be conducted on the basis of Iraq’s declarations and designations.

(B) Medium-Term Destruction of WMD and Missile Capabilities

As indicated under (A) above, one of UNSCOM’s central goals was to achieve the complete destruction of all WMD. Accordingly, UN SC Res. 687 (1991) called for “[t]he yielding by Iraq of possession to the Special Commission for destruction, removal or rendering harmless . . . of all items specified under paragraph 8 (a) [*i.e.*, chemical and biological weapons] . . . and the destruction by Iraq, under the supervision of the Special Commission, of all its missile capabilities, including launchers, as specified under paragraph 8 (b).”⁶ The same resolution also called for “. . .the destruction, removal and rendering harmless as appropriate. . .” of Iraq’s nuclear-weapon-usable materials.⁷

(C) Long-term Monitoring and Verification

UN SC Res. 687 (1991) clarified that on-site inspections and the destruction of found WMD and missile capabilities must be followed by long-term monitoring and verification efforts. Para. 10 of the Resolution called upon the Secretary-General – in consultation with UNSCOM – “to develop a plan for the future ongoing monitoring and verification of Iraq’s compliance.” Para. 12 called upon Iraq to accept this plan, while para. 13 requested the Director General of the IAEA, through the Secretary-General and with the assistance of UNSCOM, “. . .to develop a plan. . .for the future ongoing monitoring and verification of Iraq’s compliance . . . including an inventory of all nuclear material in Iraq subject to the Agency’s verification and inspections to confirm that Agency safeguards cover all relevant nuclear activities in Iraq. . . .”

UN SC Res. 715 (October 11, 1991) approved and let enter into force the Secretary-General’s October 2, 1991 Report (S/22871/Rev.1) which spelled out the plan for long-term monitoring and verification in Iraq. According to this plan, “the task of carrying out the monitoring and verification provided for under the Plan should be entrusted to an executive body under the authority of the Security Council.”⁸ Para. 7 determined that this “compliance unit” be organized under UNSCOM. Iraqi non-compliance, however, ultimately was to be determined by the Security Council, which would respond pursuant

⁴ Para. 9(b)(i).

⁵ Para. 12.

⁶ Para. 9(b)(ii).

⁷ Paras. 12 and 13.

⁸ Para. 5.

Chapter VII of the UN Charter.⁹ The duration of the monitoring was left to the discretion of the Security Council.¹⁰

III. Transition from UNSCOM to UNMOVIC and Effect on Implementation

UNSCOM operated without major obstacles until August 1998. On 9 September, the Security Council unanimously adopted resolution 1194 (1998), in which it, *inter alia*, condemned Iraq's decision to suspend cooperation with the Commission, terming Iraq's actions an unacceptable contravention of its obligations, and demanded that Iraq rescind its decision of 5 August to stop cooperation with UNSCOM. The Council also decided not to conduct any further reviews provided for in paragraphs 21 and 28 of resolution 687 (1991) until Iraq rescinded its decision and UNSCOM reported to the Council that it was satisfied that it had been able to exercise its full range of activities provided for in its mandate, including inspections.

In the preamble to resolution 1194 (1998), the Security Council nevertheless expressed its readiness to consider, in a comprehensive review, Iraq's compliance with its obligations under all relevant resolutions once Iraq had rescinded its 5 August decision and demonstrated that it was prepared to fulfil all its obligations, including, in particular, on disarmament issues, by resuming full cooperation with UNSCOM.

Richard Butler, Executive Chairman of UNSCOM, on Dec. 15, 1998 concluded that in “the absence of full cooperation by Iraq, it must regrettably be recorded again that the Commission is not able to conduct the substantive disarmament work mandated to it by the Security Council.” UN inspectors were withdrawn from Iraq and bombing followed.

On Dec. 17, 1999, the Security Council pursuant to Res. 1284 established the United Nations Monitoring, Verification and Inspection Commission (UNMOVIC). According to the Resolution's para. 2, UNMOVIC “undertake[s] the responsibilities mandated to [UNSCOM].” More specifically, the Resolution states that UNMOVIC “will implement the plan approved by the Council in resolution 715 (1991).”¹¹

UN SC Res. 1441 (Nov. 8, 2002), attesting that Iraq “has been and remains in material breach” of its disarmament obligations, grants Iraq “a final opportunity” to comply with the Council's decade-old implementation plan. The Council in this Resolution decided to set up “an enhanced inspection regime with the aim of bringing to full and verified completion the disarmament process established by resolution 687 (1991)”¹² Contrary to previous resolutions, Res. 1441 now covers nuclear-weapon-usable material too.¹³ Res. 1441 also authorizes UNMOVIC “to remove, destroy, or render harmless all prohibited weapons, subsystems, components, records, materials, and other related

⁹ Ibid.

¹⁰ Para. 27.

¹¹ Para. 2.

¹² Para. 2.

¹³ See Para. 3.

items... ”¹⁴ It thus incorporates the implementation procedures originally adopted in UN SC Res. 715 (1991) and reiterated in the context of UNMOVIC in UN SC Res. 1284 (1999).

De jure, no new implementation strategy applies to the situation in Iraq. UN SC Res. 1284 (1999) states quite clearly that UNMOVIC continues the work of UNSCOM and will do so within UNSCOM’s operational parameters. The strategy of the inspection process evolving into monitoring – though not explicitly mentioned in UN SC Res. 1441 (2002) – is reaffirmed in UN SC Res. 1284 (1999).

CONCLUSION AND RECOMMENDATIONS:

1. The United States and its armed forces were instrumental in persuading Iraq to readmit a UN inspection mission. It was only on the basis of a credible military threat that Iraq agreed to new UN inspections. The U.S. Administration deserves much credit for its principled position. It can gain further credit if – by means of legally consistent leadership – it can bring greater security to the region and the world while at the same time avoiding bloodshed and strengthening international cooperation and the rule of law.
2. In spite of the clear language in UN SC Res. 1284 (1999) that calls upon UNMOVIC to follow through with all three stages of the original 1991 UN implementation procedure, the third stage consisting of long-term monitoring and verification procedures under the new regime has been minimally addressed. It is a potent tool. The United States should assume an active leadership role in promoting a plan to immediately bring in a significant number of monitors to institute a monitoring regime that will operate in Iraq in such a manner as to ensure that no weapons can be developed or deployed. This is within the authority of the existing resolutions.
3. A monitoring regime – even if extraordinary, in fact unprecedented – would be far less expensive and far more beneficial than the use of force with all attendant uncertainties and instabilities. As indicated above, no new SC resolution calling for a long-term monitoring plan as the one proposed here is needed. It can be reasonably expected that opposition in the Security Council to such a monitoring regime will be minimal.
4. The U.S. should further call for a resolution allowing additional monitors to address ongoing human rights concerns relating to Iraq. This would put increased and effective pressure on the regime to diminish any conduct violating universally accepted human rights standards. In addition, it could support the political aspirations of progressive forces inside Iraq, in the region and in the U.S. who – in the long term - desire to make Iraq a place where democracy and human rights can flourish.

¹⁴ Para. 7.

5. The success of verifying Iraq's compliance with the previously mentioned UN SC resolutions will largely depend on U.S. resolve to strengthen a long-term monitoring plan. For this purpose, it is highly desirable that

- (a) the number of UN inspectors (currently around 100 persons) be increased to a much larger number most of whom shall function as long-term monitors (at least 400 to 500 persons); and,
- (b) additional monitors be reinforced by a group of human rights and humanitarian law monitors who keep under surveillance Saddam Hussein's human rights record and help prevent abuses inflicted upon innocent Iraqi civilians.

6. Putting into place a regime as the one proposed here would allow the Administration to simultaneously claim credit for the following:

- improved national and international security through effectively disarming Iraq;
- improved human rights conditions in Iraq through human rights monitoring;
- improved international cooperation and law through taking a leadership role in shaping and implementing international norms.

This, in turn, would constitute an enormous political victory for the U.S. and enhance the Administration's capacity to effectively address other pressing international issues.

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